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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Osiris Valenzuela,

10 Plaintiff,

11 v.

12 Samantha Esser, et al.,

13 Defendants.
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No. CV-22-01180-PHX-CDB

ORDER

15 This matter was assigned to Magistrate Judge Camille D. Bibles. (Doc. 3). On
16 March 14, 2023, the Magistrate Judge filed a Report and Recommendation with this
17 Court.¹ (Doc. 20). To date, no objections have been filed.
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20 ¹ This case is assigned to a Magistrate Judge. However, not all parties have
21 consented to the jurisdiction of the Magistrate Judge. Thus, the matter is before this Court
pursuant to General Order 21-25, which states in relevant part:

22 When a United States Magistrate Judge to whom a civil action has been
23 assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be
24 appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1)
due to incomplete status of election by the parties to consent or not consent
to the full authority of the Magistrate Judge,

25 **IT IS ORDERED** that the Magistrate Judge will prepare a Report and
Recommendation for the Chief United States District Judge or designee.

26 **IT IS FURTHER ORDERED** designating the following District Court
27 Judges to review and, if deemed suitable, to sign the order of dismissal on
my behalf:

28 Phoenix/Prescott: Senior United States District Judge Stephen M.
McNamee

STANDARD OF REVIEW

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C); see Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the service of a copy of the Magistrate’s recommendation within which to file specific written objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to object to a Magistrate Judge’s recommendation relieves the Court of conducting *de novo* review of the Magistrate Judge’s factual findings and waives all objections to those findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge’s conclusion “is a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.” Id.

DISCUSSION

Having reviewed the Report and Recommendation of the Magistrate Judge, and no Objections having been made by any party thereto, the Court hereby incorporates and adopts the Magistrate Judge’s Report and Recommendation.

CONCLUSION

Accordingly, for the reasons set forth,

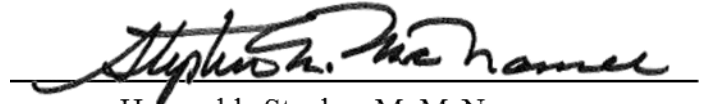
IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge. (Doc. 20).

IT IS FURTHER ORDERED that Plaintiff’s motion (Doc. 19) for the entry of judgment by default against Defendants Esser and Kimball be **granted only insofar** as Plaintiff seeks judgment by default against Defendants Esser and Kimball on Plaintiff’s FLSA claim, i.e., Count One of the Complaint, and that judgment in favor of Plaintiff and against Defendants Esser and Kimball be entered on Count One of the Complaint.

IT IS FURTHER ORDERED that Plaintiff be awarded damages in the amount of \$3900.00 against Defendants Esser and Kimball for violation of the FLSA. Any further award of damages, should Plaintiff be awarded judgment by default on Count Two of the Complaint, shall be offset for the amount awarded for violation of the FLSA.

1 **IT IS FURTHER ORDERED** that Plaintiff be given leave to file a renewed
2 motion for the entry of judgment by default regarding Count Two of the Complaint
3 within twenty-one (21) days of the date an order is issued adopting or rejecting this
4 Report and Recommendation.

5 Dated this 5th day of April, 2023.

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8 
9 Honorable Stephen M. McNamee
10 Senior United States District Judge
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